

MINUTES
OF THE REGULAR MEETING OF THE
EDINA CITY COUNCIL
HELD AT CITY HALL
DECEMBER 17, 2002
7:00 P.M.

ROLLCALL Answering rollcall were Members Housh, Hovland, Masica and Mayor Maetzold. Member Kelly entered the meeting at 7:10 P.M.

CONSENT AGENDA ITEMS APPROVED Motion made by Member Hovland and seconded by Member Housh approving the Council Consent Agenda as presented with the exception of Agenda Item V.C., Performance Based Transit Funding Agreement for Edina Dial-a-Ride.

Rollcall:

Ayes: Housh, Hovland, Masica, Maetzold

Motion carried.

*MINUTES OF THE REGULAR MEETING OF DECEMBER 3, 2002, AND TRUTH IN TAXATION HEARING OF DECEMBER 2, 2002, APPROVED Motion made by Member Hovland and seconded by Member Housh, approving the Minutes of the Regular Meeting of the Edina City Council for December 3, 2002, and Truth In Taxation Hearing of December 2, 2002.

Motion carried on rollcall vote – four ayes.

RESOLUTION NO. 2002-112 – ELECTION STAFF RECOGNIZED Mayor Maetzold read Resolution No. 2002-112, recognizing the 2002 Election Staff in the State’s General election.

Member Masica introduced the following resolution and moved its adoption:

RESOLUTION OF APPRECIATION

WHEREAS, the right to vote for law-making representatives and an independent judiciary is the cornerstone of the world’s largest continuing democracy; and

WHEREAS, the mission of the Edina Election Staff is to conduct fraud- and error-free elections that uphold election laws with integrity, dignity and accuracy to maintain public trust and confidence; and

WHEREAS, Minnesota’s 2002 Elections included public service challenges not often faced, but handled by the Election Staff in a patient, honest and impartial manner; and

WHEREAS, Edina Election Staff assisted more than 28,000 Edina citizens in casting their ballots, including more than 4,000 people who voted by absentee ballots.

NOW, THEREFORE, BE IT RESOLVED, that the Edina City Council, City staff and all Edina residents hereby express their thanks and appreciation to the

EDINA ELECTION STAFF

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made up of Vince Bongaarts, Janet Canton, Pat Dawson, Leslie Friedrichs, Bev Haw, Diana Hedges, Jackie Hoogenakker, Naomi Johnson, Diane Julien, Terry Klapperick, Judy Laufenburger, Tony Leone, Deb Mangen, Susie Miller, Paula Nelson, Vera Norine, Larry Schroers, Cathy Snyder, Donna Tilsner, Jane Timm, Jason Turner, Sue Waack, Mary Jean Weigel, Gary Wells, Solvei Wilmot, and Ann Lee Zalk, for their tireless efforts and sincere dedication in administering the 2002 General Municipal Election.

Passed and adopted this 17th day of December 2002.

Member Hovland seconded the motion.

Ayes: Housh, Hovland, Masica, Maetzold

Motion carried.

*RESOLUTION NO. 2002-114 APPROVING LOT DIVISION FOR 5616-5620 WEST 78TH STREET Member Hovland introduced the following resolution seconded by Member Housh and moved its adoption:

RESOLUTION NO. 2002-114
RESOLUTION APPROVING LOT DIVISION FOR
5616-5620 78TH STREET WEST

WHEREAS, the following described properties are at present one tract of land"

Lot 7, and that part of Lot 6 lying westerly of the following described line; beginning at a point in the southeasterly line of said Lot 6, distant 30 feet southwesterly from the most easterly corner thereof; thence northwesterly to the most northerly corner of said Lot 6 and there terminating all in Block 2 "HEATH GLEN", Hennepin County, Minnesota.

WHEREAS, the owner has requested the subdivision of said tract into separate parcels (herein called "parcels") described as follows:

PARCEL A:

Those parts of Lots 6 and 7, Block 2, "HEATH GLEN" lying northeasterly of a line described as beginning at a point on the southeast line of said Lot 6, distant 104.61 feet southwesterly from the most easterly corner of said Lot 6; thence northwesterly to a point on the West line of said Lot 7, distant 88.79 feet south from the most northerly corner of said Lot 7 and there terminating, and that part of said Lot 6 which lies westerly of the following described line: Beginning at a point in the southeasterly line of said Lot 6, distant 30 feet southwesterly from the most easterly corner thereof; thence northwesterly to the most northerly corner of said Lot 6 and there terminating, all in Block 2, "HEATH GLEN", Hennepin County, Minnesota. (Containing 19473.15 square feet or 0.447 acres)

PARCEL B:

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Those parts of Lots 6 and 7, Block 2, "HEATH GLEN" lying southwesterly of a line described as beginning at a point on the southeast line of said Lot 6, distant 104.61 feet southwesterly from the most easterly corner of said Lot 6; thence northwesterly to a point on the West line of said Lot 7, distant 88.79 feet south from the most northerly corner of said Lot 7 and there terminating. (Containing 13493.41 sq. ft. or 0.31 acres)

WHEREAS, the requested subdivision is authorized under Code Section 810 and it has been determined that compliance with the Subdivision and Zoning Regulations of the City of Edina will create an unnecessary hardship and said newly created Parcels as separate tracts of land do not interfere with the Subdivision and Zoning Regulations as contained in the Edina City Code Sections 810 and 850;

NOW, THEREFORE, it is hereby resolved by the City Council of the City of Edina that the conveyance and ownership of the above described tracts of land (PARCEL A and PARCEL B) as separate tracts of land and hereby approved and the requirements and provisions of Code Sections 850 and 810 are hereby waived to allow said division and conveyance thereof as separate tracts of land but only to the extent permitted under Code Sections 810 and 850 SUBJECT TO THE LIMITATIONS SET OUT IN Code Section 850 and said Ordinances are now waived for any other purpose or as to any other provisions thereof, and further subject, however, to the provision that no further subdivision be made of said Parcels unless made in compliance with the pertinent Ordinances of the City of Edina.

Adopted this 17th day of December, 2002.

Motion carried on rollcall vote – four ayes.

ORDINANCE NO. 2002-10 REJECTED - TREE REMOVAL ORDINANCE Planner Larsen said the Council considered adopting a comprehensive tree removal ordinance at their November 19, 2002, meeting. Staff was directed to revise the ordinance and gather additional information from other communities as well as the cost implications to administer such an ordinance. 40 metro area communities were contacted to see if they regulate or require permits on developed R-1 and R-2 lots, 25 cities responded. Two cities, in addition to Wayzata, have ordinances addressing tree removal on developed residential properties; Shoreview and Blaine. Shoreview requires a permit to remove a quality tree with a diameter of 15 inches or greater or 30 inches for box elder or cottonwood trees. In Blaine, a homeowner can remove 2 trees with a diameter of greater than 8 inches, removing more would require approval of the City Forester.

Mr. Larsen elaborated staff attempted to estimate costs to administer a similar ordinance in Edina. Cities spoken to could not put a cost or time estimate of enforcement of their tree removal ordinance but both cities employ full-time foresters. The City of Edina's forester is a half-time position. Both cities license tree trimming and tree-removal contractors, Edina does not. Based upon discussions staff feels the

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following cost implications of adopting and administering the ordinance would be as follows:

Staffing: Enforcing the ordinance would require a full-time forester.

Contractor License: Costs associated with requiring a City license. Enforcing the ordinance without licensing would be difficult.

Attorney Fees: City would likely incur attorney fees when enforcing the ordinance

Staff is concerned with fair enforcement and may require a difficult subjective judgment on whether to grant or deny a permit.

Manager Hughes informed the Council that the half-time contracted forester's annual salary is approximately \$26,700. If the position became full-time, an additional \$33,000 would be added to the position's services. Off setting a portion of that salary increase would be permit fees and licensing fees. The costs of prosecution are difficult to estimate.

Member Kelly inquired whether a full-time forester would be immediately necessary. Mr. Hughes said much depends on the level of enforcement desired. Mr. Kelly stated he believes the increase in the forester's work is proportional to the increase in permit fees and licenses. Mr. Larsen added when residents are aware there is a control in place, the forester would be very busy responding to calls of concern, and many might occur on a weekend.

Member Housh inquired where this proposed Ordinance emanated from. Mr. Kelly responded it began with a resident in his neighborhood cutting most of the mature trees on the lot. His neighbors inquired of him whether an ordinance existed regarding tree removal and he brought the subject before the Council. Mr. Housh inquired about the difference between tree removal on a vacant lot and one that has a home on it. Mr. Larsen noted that issuing a building permit and subsequent construction would be tied to trees being removed. Mr. Kelly reminded the Council the Ordinance has no specific language in a subdivision request stating that a tree may not be removed. Mr. Larsen explained the proposed Ordinance is not a tree-replacement Ordinance.

Mayor Maetzold asked how many requests are received for removal of diseased trees. Mr. Larsen explained the City forester consults with residents more about saving their trees than removing them. Mayor Maetzold said the cost would be minimal if the forester would be responding to calls rather than doing constant inspections of neighborhoods for violations.

Member Housh elaborated that if this is the case, why is this proposed ordinance necessary.

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Member Masica stated that mature trees are an asset and is an unusual circumstance when they are removed. She said she believes this ordinance would be hard to enforce and difficult to govern what people do on their own property.

Member Hovland indicated he disagrees with the fact that the opinion of the forester being substituted for the judgment of the homeowner. He voiced concern with adding costs to an already tight budget as well as creating new permit fees. He suggested taking a 'wait and see' attitude before approving the proposed ordinance. If residents see this is becoming problematic a closer look could be taken to approving the ordinance.

Mayor Maetzold asked what the process would be to license firms that remove trees. Mr. Hughes responded that approximately 4 - 5 companies remove most of the trees in the City. Licensing in cities with tree ordinances is not based upon competency but rather as a mechanism to inform them of what the permit rules are. Mr. Maetzold indicated his approval with passing the ordinance to maintain consistency in all that we do. He said there is an issue of individual property rights as well as rights of adjoining property owners. Mr. Maetzold said he does not believe there will be many applications for permits so the costs will not be burdensome to the City.

Brad Teslow, 4128 62nd Street West, said the reason to keep a tree is for shade, deadens noise, creates a windbreak, absorbs water, saves energy and provides privacy. As a homeowner, the important thing is how tree removal would affect adjoining property owners.

Mr. Larsen commented that the Park Director has to give permission every time a tree is removed from the boulevard, however, many times the permission is not sought.

Motion made by Member Kelly for adoption of Ordinance No. 2002-10, Tree Removal Ordinance as presented. Mayor Maetzold seconded the motion.

Rollcall:

Ayes: Kelly, Maetzold

Nays: Housh, Hovland, Masica

Motion failed.

ORDINANCE NO. 2002-10 AMENDMENTS TO SECTION 900 AND SECTION 1230 OF THE CITY LIQUOR CODE CONTINUED TO JANUARY 7, 2003 Manager Hughes stated staff prepared the proposed amendment to the liquor code at the Council's direction after receiving the request of the 50th & France Business and Professional Association in connection with the 2003 Art Fair. He provided an overview of the draft ordinance.

Council Comment: Mayor Maetzold inquired about the pros and cons of requiring a 'manager' be approved by the Police Chief to oversee the licensed premises. Mr.

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Hughes explained since it was an outdoor environment and the license holder was not in the business of dispensing alcoholic beverages, a requirement may be required by the Council to involve someone with business experience. Mr. Maetzold asked when would the Council require this. Mr. Hughes responded during the application process. Mr. Hughes elaborated for an intoxicating license, a public hearing would be required. For a 3.2 temporary license, a hearing is not required but still requires Council action.

Member Hovland asked what the standard is for issuing a license and inquired whether they should be spelled out in the ordinance. Mr. Hughes responded all licenses have to comply with provisions within 900.05 (A – K). Mr. Hovland asked if some element of subjectivity exists for a decision by the Council. Mr. Hughes said with any renewal of liquor licensing it could be argued that licensing is a property right. There is more discretion on the initial licensing. Member Housh noted only organizations listed in Section 900.07, are eligible for an intoxicating liquor license. Mr. Hughes said there are broader groups that could apply for a 3.2 beer license. Mr. Hovland asked clarification of Section 900.08 (M), a non-profit club. Mr. Hughes said the language is from the State Statute and states that all charitable, religious, or clubs must be non-profit in nature. Attorney Lindgren added that State Statute would cover the definition of legal non-profit for only a 3.2 license. Mr. Hovland questioned Section 1230.8 (D) referring to property damage by permit holder. He wondered if collection of monies for these damages would be a problem. He suggested maybe a bond or a security deposit could be made a requirement of approving licensing.

Mayor Maetzold inquired whether the Amendment could limit licensing to everyone yet accommodate 50th & France. Mr. Hughes said modification would be necessary to not allow temporary intoxicating sales but just allow temporary 3.2 beer licensing.

Ms. Masica asked if the word “club” could be eliminated. Mr. Lindgren said a re-phrasing of the words to read ‘non-profit organization’ would solve the dilemma.

Mr. Hughes said the focus is on usage of City property because of the request from the 50th & France Association, however a request may come in for use not on property owned by the City. The City has more discretion concerning applicants who wish to use public property.

Mr. Hughes noted he has added language into the proposed Amendment that would extend the ability to serve wine and beer at the new Senior Center.

Ms. Masica stated she agrees that a manager must be on site and an experienced person in the sales area. Training volunteers to man the serving area might be an ominous task. She suggested enlarging the responsibility of the manager to check ID’s, etc.

Mr. Hovland asked about what insurance coverage would be necessary for a temporary license. Mr. Housh said normally dram shop coverage would not be necessary and a

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basic policy would have a level of coverage. A certificate of coverage's would need to be provided.

Mr. Maetzold said he believes training for each server is essential.

Mr. Kelly asked clarification with correlation between violations and training. Chief Siitari said upon examination, he did not feel there was a significant correlation between alcohol awareness training and license violations.

Public comment:

Colleen Jones, 50th & France Association, said last year a manager/overseer of volunteers was hired to oversee the beer garden in Minneapolis and she believes a manager should always be on duty. Mr. Maetzold asked if Minneapolis required volunteer training and if it could be onerous. Ms. Jones answered Minneapolis does not require training and training would be difficult as many volunteers drop out at the last minute. Ms. Jones added Minneapolis requires a \$500.00 bond as well as a certificate of insurance naming the City as a named insured. Mr. Hovland asked about controlling minors. Ms. Jones elaborated that this could be controlled by having, 1) professional security guards at gates to check ID's, 2) ID's checked at serving counter, and 3) off-duty Police Officers on site.

Public Comment

Kathy Iverson, 5410 York Avenue South, explained that she was the Edina Chemical Health Coordinator, but that she had not yet had an opportunity for the group to meet and form a consensus so that her comments were hers only. Ms. Iverson expressed her extreme concern with the proposed ordinance and asked if the Council truly thought that patrons of the Edina Art Fair were missing the opportunity to purchase intoxicating liquor. She urged caution in proceeding.

Mark Peterson, 6604 Indian Hills Road, explained he was a fifty plus year resident and father of two children. He added he was a criminal defense lawyer and a member of Edina Chemical Health Partners. Mr. Peterson expressed his concern, and questioned whether the City really wanted to open itself up to this activity. He also cautioned that if the City decided to proceed they should in his opinion look at requiring a physical barrier for any outdoor alcohol event, require the security to be licensed off duty police officers, limit patrons from entering with any outside container and require that all servers be over 21.

Mr. Hovland asked Ms. Jones the amount of revenue generated from the beer garden last year at the Edina Art Fair. Ms. Jones said the net amount was approximately \$3,000.00.

Ms. Masica stated her agreement with servers being twenty-one years of age or older.

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Mr. Hovland asked whether the number of licensees could be limited. Mr. Hughes stated the Ordinance Amendment provides such a limitation.

Ms. Masica inquired whether the Association would solicit a license from Minneapolis as well as Edina. Ms. Jones said no.

Mr. Maetzold inquired whether the Amendment should include language about bringing outside containers into the area. Mr. Hughes responded that is more of an operating issue.

Mr. Hovland asked what the demographics are of the Edina Art Fair. Ms. Jones answered that most participants are women from 35 – 50.

Mr. Hughes elaborated that some fine-tuning is necessary with the Amendment, 1) requirement that servers must be 21 years of age or older, 2) to delete the requirement that all servers must receive alcohol training, 3) define eligible organizations for the 3.2 license, 4) acquiring a bond or cash requirement for use of City property and 5) defining the issue of dual-licenses and location. Mr. Housh asked if an already licensed entity could step forward and share the profits with the Association. Mr. Hughes said he spoke with another City and inquired whether they allowed an established business to do this and was told no.

Mr. Maetzold asked Chief Siitari if he is comfortable with not requiring alcohol awareness training. Mr. Siitari responded yes.

Motion made by Member Kelly to continue Ordinance No. 2002-10 an Ordinance Amending Section 900 and Section 1230 of the City Liquor Code to the Regular Meeting of January 7, 2003, for further clarification of language. Member Hovland seconded the motion.

Ayes: Housh, Hovland, Kelly, Masica, Maetzold
Motion carried.

FIRST READING GRANTED TO ORDINANCE NO. 2002-11 BODY ART REGULATION Sanitarian Velde explained at the December 3, 2002, regular Council meeting, the Council raised questions about Ordinance No. 2002-11, the Regulation of Body Art.

A. Can Body Art be prohibited:

Yes, it could be prohibited if the prohibition is warranted due to a public health or public safety concern. It would be difficult to demonstrate a public health or safety hazard associated with this procedure that would warrant a prohibition.

B. Can cosmetic tattooing be defined and permitted but other forms of tattooing be prohibited.

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Defining cosmetic tattooing as opposed to tattooing in general is problematic. Both procedures involve the introduction of ink or other pigments into or under the skin resulting in permanent coloration of the skin. Whether the tattoo is art or cosmetic becomes a subjective interpretation. Cosmetic tattooing may be more of a health concern because the cosmetic tattoo guns have components that may be exposed to inks or pigments tainted with blood or body fluids that cannot be autoclaved (steam sterilized).

- C. Is the term "Board Certified" regarding the exemption of certain procedures necessary or needed?

The term "Board Certified" was used in a model ordinance developed by the National Environmental Health Association. The term need not be included in a local ordinance. A licensed health professional would probably serve the same purpose without requiring additional certification. The term Board Certified is not clearly defined in Minnesota Statute regarding tattooing.

- D. If the City does not enact an Ordinance in the near future, will the County Ordinance be implemented in the City?

Hennepin County has not contacted establishments in the communities that indicated they would be developing a local ordinance. These communities include, Edina, Brooklyn Park and New Hope. Cities that already have a Body Art Establishment licensing ordinance in place include Bloomington, Richfield, Minneapolis and Minnetonka. Hennepin County is licensing Body Art Establishments in Osseo, Maple Plain, Hopkins, Golden Valley and St. Louis Park.

If the City Council decides not to adopt a local Ordinance, Hennepin County would begin licensing and inspecting these establishments in Edina. Once the County begins licensing establishments in Edina, it may be difficult for Edina to adopt an ordinance at a later date to pre-empt the County Ordinance.

Council comment:

Member Masica asked what liability Edina would have if they licensed these establishments. Attorney Lindgren said the City is in the business of looking out for the public health and safety of its residents. Licensing should not create any additional liability to the City.

Member Housh asked if approval of the Ordinance costs the City more or would it be better to allow the County to license because of their experience.

Member Hovland stated that he would like to prohibit body art, etc. in Edina. He presented information gleaned from the internet regarding the medical aspect of tattooing and body piercing.

Mayor Maetzold asked if this could be prohibited, unless done by a medical doctor. Mr. Lindgren said it is a judgment call as to what a public health issue is. More dangerous is

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trying to judge what is cosmetic and what is a public health issue. He added with more research, that language could be crafted that could prohibit body art in Edina unless performed by a medical doctor.

Ms. Masica asked if ear-piercing with a gun would be prohibited. Mr. Velde said ear-piercing on the ear lobe would not be prohibited.

Mr. Housh elaborated that if a person wants a tattoo or body piercing it is available in other cities. He would not agree to a prohibition.

Ms. Masica explained a certain clientele is associated with body art, etc. She voiced favor with grandfathering in the Laser Cosmetic Surgery Center.

Mr. Maetzold inquired whether tattooing could be prohibited based on public health. Mr. Velde said he believes it could not be banned because the epidemiology is not that conclusive.

Mr. Hovland stated that the public safety/health concern is the chance of contracting Hepatitis C or B, skin infections, or HIV. He believes it should be banned in Edina and wait to see if the ban is challenged in the law.

Mr. Kelly said he would like to see a ban but he is not a proponent of the legal fees it would take to defend the ban.

Mr. Maetzold asked if the Ordinance is adopted and the Council had a change of mind in a year, could the County then be the controlling body. Mr. Velde said programs have been turned over to the County in the past and Edina could adopt an Ordinance in the future.

Mr. Housh inquired whether the County would have a lower standard with licensing. Mr. Velde noted the Ordinance as presented is basically the same as Hennepin County's Ordinance, the difference is we are not licensing individuals, just the facility.

Mr. Maetzold voiced concern with giving up licensing control to the County.

Mr. Hovland suggested adding language to the proposed Ordinance banning piercing guns.

Ms. Masica indicated her vote would be for a total ban.

Mayor Maetzold moved First Reading of Ordinance No. 2002-11, An Ordinance Adding New Section 745 to the Edina City Code – Body Art Establishments and the issue would be back on the Agenda for Second Reading in February with an effective date of April 1, 2003. Member Kelly seconded the motion.

Rollcall:

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Ayes: Housh, Kelly, Maetzold

Nays: Hovland, Masica

Motion carried.

***FOUR-WHEEL DRIVE ROTARY MOWER - BRAEMAR GOLF COURSE** Motion made by Member Hovland and seconded by Member Housh for award of bid for a four-wheel drive rotary mower for Braemar Golf Course to sole bidder, MTI Distributing at \$52,210.60 under State Contract #429881.

Motion carried on rollcall vote – four ayes.

***WELL REPAIR/MOTOR REPLACEMENT/ELECTRICAL AND MECHANICAL REPLACEMENT FOR WELL NO. 8, CONTRACT NO. 03-01 PW, IMP. No. WM-411** Motion made by Member Hovland and seconded by Member Housh for award of bid for well repair/motor replacement/electrical and mechanical replacement for Well No. 8, Contract No. 03-01 PW, Improvement No. WM-411 to recommended low bidder, Magney Construction at \$202,953.00.

Motion carried on rollcall vote – four ayes.

***TRAFFIC SAFETY STAFF REVIEW OF DECEMBER 6, 2002, APPROVED** Motion made by Member Hovland and seconded by Member Housh approving the Traffic Safety Staff Review of December 6, 2002, Section A, B, and C.

Motion carried on rollcall vote – four ayes.

***RESOLUTION NO. 2002-115 APPROVING EXTENDING HENNEPIN COUNTY ELECTRONIC PROPRIETARY DATA BASE (EPDB) CONDITIONAL USE LICENSE AGREEMENT** Member Hovland introduced the following resolution seconded by Member Housh and moved its adoption:

RESOLUTION NO. 2002-115

A RESOLUTION AUTHORIZING

EXECUTION OF AN AGREEMENT WITH HENNEPIN COUNTY
FOR ACCESS BY THE CITY OF EDINA OF COMPUTERIZED DATA FILES

WHEREAS, Hennepin County has submitted an Agreement (Contract No. A00279) to the City of Edina requesting execution by the Mayor and City Manager allowing the City of Edina access to the Hennepin County computerized data files.

NOW, THEREFORE, the Edina City Council has authorized the Mayor and City Manager to sign the Agreement and return a certified copy to Hennepin County.

Adopted this 17th day of December, 2002.

Motion carried on rollcall vote – four ayes.

PERFORMANCE BASED TRANSIT FUNDING AGREEMENT APPROVED FOR EDINA DIAL-a-RIDE Member Masica asked that the performance based transit funding agreement for Edina Dial-a-Ride be removed from the Consent Agenda for further information. She inquired about numbers of current rider-ship. Mr. Hughes said the Dial-a-Ride is running at capacity and are turning away riders because of an inability to serve them. Consideration is being given to perhaps extending the hours of

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operation. Ms. Masica asked if this serves only senior citizens. Mr. Hughes said it serves mostly seniors but has served English as a Second Language (ESL) persons attending school. Ms. Masica asked what Edina's share is with the Dial-a-Ride. Mr. Wallin responded, Edina's share is \$24,000.00. Ms. Masica asked about II. Subsidized Services No. 2.05 that states the City must implement a drug testing program. Mr. Hughes said a parallel agreement exists with Senior Community Services where they must fulfill the obligations under the contract. The City provides mechanical services on the bus and the mechanics are subject to random testing for drug and alcohol use. Ms. Masica inquired about Section 4.06 Funding Assumption, funding could be reduced by the Met Council for inadequate use. Mr. Hughes said the bigger issue isn't use but if there is a state budget problem in the future.

Member Masica made a motion authorizing execution of the Performance-Based Transit Funding Agreement with the City of Edina, by the Mayor and City Manager. Member Hovland seconded the motion.

Ayes: Housh, Hovland, Kelly, Masica, Maetzold

Motion carried.

WATER SYSTEM UPDATE PRESENTED City Engineer Wayne Houle updated the Council on the City's water system. Mr. Houle reminded the Council that the summer of 2001 was a very dry summer and staff spent many hours monitoring the system. Some issues that arose from a summer of heavy water use were water quality and quantity. He pointed out that Edina's Vision 20/20 talked about a sound infrastructure and providing clean and adequate supply of water. Other issues that were identified in 20/20 were the look and taste of our water.

Mr. Houle outlined projects that have been completed within the last couple of years. He said during the past year four of Edina's eighteen wells have been rehabilitated or redeveloped. This gained an additional 2500 gpm pumping capacity between the wells and enables the City's large iron producing seasonal well to be shut down. This also provides a greater volume of water into the system thereby helping reduce the regeneration of the system. In addition, over the last four years we have completed upgrading three of the four water treatment plants providing a more stable water quality for the City.

Mr. Houle noted the water tower renovations have included the Gleason Tower in 1996, the Community Center Tower and the Southdale Tower. The renovations not only provided an updated clean look for the community, but also a structurally sound reservoir system that will provide clean water for years to come.

He stated that some of the future projects include upgrading the system by renovating Water Treatment Plant No. 2. This plant is over 40 years old. The existing filters are showing distress and are at a point of failure. Recent regulations by the EPA also require an upgrade of the treatment plant. Mr. Houle said the City was currently in compliance with all required EPA rules, primary and secondary, it will be out of compliance with the Radium and Radionuclides Rule in 2007 for this plant.

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Mr. Houle explained another major project would be the implementation of the SCADA System. He stated that a Supervisory Control and Data Acquisition System or SCADA system was a digital control system that automatically scans and stores data from remote sites and permits control actions to be taken by an authorized utility coordinator. This system will monitor water towers, wells, water treatment plants along with the sanitary and storm sewer operations.

He added these systems have been around for thirty to forty years. In the earlier years they were typically a proprietary system, meaning only one vendor would sell and control the system. Mr. Houle explained that now every utility system of Edina's size and even smaller, controls their system with a SCADA system. SCADA systems consist of two parts: software and hardware. Many vendors supply different software and hardware that will talk to each other.

Mr. Houle said a SCADA system would enable Edina's operators to do more with less, and would provide better system security and data security. He noted that some utilities have been placing monitoring devices to check for any type of fluctuations within the system that might indicate tampering with the system.

The system would be able to operate in real time, which makes a more efficient system operation and also would improve response time. Mr. Houle explained that during the recent apartment fire at West 70th Street one of our operators was able to turn the underground reservoir on at Dublin and West 70th Street to help provide the needed water to fight that fire, noting that if this operator had not been on site to actually help his daughter who was a resident in the building the City's response time could have been longer jeopardizing the water supply to the area. A SCADA system would have detected a pressure reduction within the system and enabled the reservoir pumps.

A SCADA system would also provide for lower cost in meeting water quality standards and a lower labor cost to maintain and monitor the water and sewer system. Currently he explained this monitoring cost alone approached approximately \$100,000 a year.

Mr. Houle stated that future projects include continuing the replacement of cast iron pipes in the City. He said about one-third of the watermain within the City were cast iron and have a tendency to have more watermain breaks. Additionally, the City has experienced more brown/red water calls in these areas. He also stated the City will continue to redevelop its wells because this provides better water quality and quantity.

Mr. Houle outlined the costs for the proposed improvements

- Treatment Plant No. 2 Upgrade - \$1,400,000
- SCADA System Implementation - \$1,800,000
- Well Rehabilitation & Pipe Replacements - \$300,000 - \$400,000 annually

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Mr. Houle reported that the City's water rates have been increasing at 3% per year. A recent rate study indicates that in order to maintain the system and keep a recommended reserve balance of 50% of the operating and maintenance revenue the City will need to raise the rates at 4-6% per year for the next few years. However, by just raising the rate the reserve will drop within the next two years to approximately \$1,500,000. Staff has researched securing approximately \$3,200,000 in construction bonds in addition to raising the water rates to maintain the necessary fund balance in the Utility Fund and allow Edina to continue providing good water quality. Mr. Houle concluded that Edina has a very stable and secure system and the project proposed in the City's upcoming Capital Improvement Plan will continue providing citizens with a clean and adequate supply of water.

No formal Council action was taken.

***RESOLUTION 2002-113 - ADOPTING REQUIRED CHANGES TO THE CITY'S EMPLOYEE FLEXIBLE BENEFIT PLAN** Member Hovland introduced the following resolution seconded by Member Housh and moved its adoption:

RESOLUTION NO. 2002-113

**RESOLUTION ADOPTING REQUIRED CHANGES TO THE
CITY'S FLEXIBLE BENEFIT PLAN**

WHEREAS, the City of Edina previously adopted the Flexible Benefit Plan (the Plan) on March 1, 1990;

WHEREAS, the City of Edina chooses to amend and restate the Plan in the following manner:

Effective January 1, 2003:

- **The Plan will operate using the Final FMLS Regulations issued October 17, 2001, and updated Claims Appeal Process issued July 1, 2002;**

NOW, THEREFORE, BE IT RESOLVED, that the City of Edina Flexible Benefit Plan be and the same is amended and restated;

BE IT FURTHER RESOLVED, that any proper members of the City Council are hereby authorized to make such contributions from the funds of the Employer as are necessary to carry out the provisions of said Plan at any time; and

BE IT FURTHER RESOLVED, that in the event any conflict arises between the provisions of said Plan and the employee Retirement Income Security Act of 1974 (ERISA) or any other applicable law or regulation (as such law or regulation may be interpreted or amended), the Company shall resolve such conflict in a manner which complies with ERISA or such law or regulation.

ADOPTED this 17th day of December 2002.

Motion carried on rollcall vote - four ayes.

***CONFIRMATION OF CLAIMS PAID** Member Hovland made a motion and Member Housh seconded the motion approving payment of the following claims as shown in detail on the Check Register dated December 4, 2002, and consisting of 24 pages: General Fund \$217,686.83; CDBG Fund \$9,918.00; Communications Fund \$1,611.70; Working Capital Fund \$511.40; Art Center Fund \$985.36; Golf Course Fund

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\$2,300.73; Ice Arena Fund \$17,383.30; Edinborough/Centennial Lakes Fund \$1,599.65; Liquor Fund \$187,231.63; Utility Fund \$38,897.79; Storm Sewer Fund \$24,792.10; TOTAL \$502,918.49; and for approval of payment of claims dated December 12, 2002, and consisting of 43 pages: General Fund \$360,492.62; CDBG Fund \$9,715.00; Communications Fund \$4,428.53; Working Capital Fund \$60,927.96; Construction Fund \$3,974.07; Art Center Fund \$19,002.25; Golf Dome Fund \$1,795.92; Aquatic Center Fund \$46.88; Golf Course Fund \$8,072.45; Ice Arena Fund \$7,435.54; Edinborough/Centennial Lakes Fund \$11,156.10; Liquor Fund \$139,582.51; Utility Fund \$17,076.29; Storm Sewer Fund \$506.34; Recycling Fund \$33,793.77; Payroll Fund \$515,000.00; TOTAL \$1,193,006.23.

Motion carried on rollcall vote – four ayes.

CONCERN OF RESIDENT Addie Fitzsimmons, 5025 Yvonne Terrace, again voiced concern with drainage issues caused by earth displacement due to a neighbors' addition. She requested a copy of a letter submitted to the Council by David and Ann Dickey, 5021 Yvonne Terrace. Mr. Maetzold explained the issue is between her and the Dickey's. The City cannot do anything more.

ORDINANCE NO. 2002-8 APPROVED - AMENDING CODE SECTION 185, INCREASING CERTAIN FEES Affidavits of Notice were presented, approved and ordered placed on file.

Manager Hughes explained that 2003 fees and charges also included a public hearing on the proposed liquor license fees.

Member Kelly made a motion to adopt Ordinance No. 2002-8:
SCHEDULE 2

ORDINANCE NO. 2002 - 8

THE CITY COUNCIL OF THE CITY OF EDINA ORDAINS:

Section 1. The following described fees of Schedule A to Code Section 185 are amended to read as follows:

SECTION	SUBSEC.	PURPOSE OF FEE/CHARGE	AMOUNT
215	215.04	Bingo Occasion, Gambling Device, Raffle Permit	\$15.00
410	410.02 Subd 1	Building Permit	If total valuation of work is: \$1 to 500 \$23.50 501 to 2,000 \$23.50* first \$500 plus \$3.05 ea add'l \$100 or fraction thereof to and including \$2,000 2,000 to 25,000 \$69.25* first \$2,000 plus \$14.00 ea add'l \$1,000 or fraction thereof

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			<p>to and including \$25,000 <u>25,001 to 50,000</u> \$391.25* first \$25,000 plus \$10.10 ea add'l \$1,000 or fraction thereof to and including \$50,000 <u>50,001 to 100,000</u> \$643.75* first \$50,000 plus \$7.00 ea add'l \$1,000 or fraction thereof to and including \$100,000 <u>\$100,001 to 500,000</u> \$993.75* first \$100,000 plus \$5.60 ea add'l \$1,000 or fraction thereof to and including \$500,000 <u>\$500,001 - \$1,000,000</u> \$3,233.75* first \$500,000 plus \$4.75 ea add'l \$1,000 or fraction thereof to and including \$1,000,000 <u>\$1,000,001 and up</u> \$5,608.75* first \$1,000,000 plus \$3.65 ea add'l \$1,000 or fraction thereof to and including \$1,000,000 *plus surcharge pursuant to M.S. 16B.70</p>
410	410.02 Subd. 1	Re-Inspection Fee Assessed under Provisions UBC, Section 108.8	\$47.00 per hour cost to City, whichever is greatest. (Includes supervision, overhead, equipment, hourly wages & fringe benefits of employees involved)
421	421.07 Subd 3	Street Surface Repair	<p>\$30.00 per sq ft under 10 sf \$25.00 per sq ft from 10 - 25 feet \$20.00 per sq ft over 25 sq ft</p>
450	450.27 Subd. 4	Public or Semi- Public Swimming Pool License	<p>\$425.00 per year for each enclosed pool (partial or all of the year) \$230.00 per year for each outdoor pool</p>
450	450.27 Subd 4	Public or semi- Public Whirlpool Bath or Therapeutic Swimming Pool License	\$130.00 per year for each bath or pool
475	475.03 Subd 1	Parking Ramp License	\$125.00 per year
605	605.07	Permits Required by	\$200.00 Class II: Special hazard inspection involving various hazardous

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		UFC Special Hazard Permit	materials and/or processes in occupancies of buildings less than 3,000 sq.ft. in area \$300.00 Class III: Special hazard inspection primarily directed at, but not limited to, buildings or occupancies 3,000 sf or larger where any of the following are present: multiple hazards, storage handling, and/or processes involving dangerous or toxic materials, substances and/or processes; or occupancies in which valuation or high valuation presents unique circumstances
605	605.07	General Fire Safety Inspection Fee Assessed Under Provisions of UFC, Section 105.8	\$47.00
615	615.03	License to Service Fire Extinguishers	\$40.00 per year per person licensed
625	625.03	Sprinkler Permit Fees	Per Number of Heads: 6-25 \$ 100.00 * 26-50 190.00 * 51-75 250.00 * 76-100 295.00 * 101-125 330.00 * 126-150 350.00 * 151-175 380.00 * 176-200 400.00 * 201 plus 460.00 * * for first 200 + \$2.00 for each additional head * plus surcharge pursuant to MS 16B.70
625	625.03	- Fire Pump Installation & Associated Hardware - Standpipe Installation - Each Add'l Pipe	\$200.00 \$125.00 \$15.00

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716	716.02	Recycling Service	Single Family - \$5.49/quarter Double Bungalow - \$5.49/quarter Apts/Condos (2-8 units) \$5.01/quarter
721	721.03	Food Establishment	High Risk Food - \$500.00 Medium Risk Food - \$320.00 Low Risk Food - \$90.00
820	820.01	Filing of application for vacation of street, alley or easement	\$350.00
900	900.07 Subd 1	Liquor License Fees (per year) -On-Sale Intoxicating/Restaurants Only -Off-Sale 3.2 Malt Liquor (new) -Off-Sale 3.2 Malt Liquor (renewal) -On-Sale 3.2 Malt Liquor (new) -On-Sale 3.2 Malt Liquor (renewal) -Temporary On-Sale 3.2% Malt Liquor	\$8,490.00 \$530.00 \$530.00 \$530.00 \$530.00 \$65.00 (per event)
1100	1100.03 Subd 4A	Shutting off or turning on curb water	\$25.00 for each turn-on and each shut-off
1105	1105.01 Subd 1	Service Availability Charge (SAC)	\$1,275.00 per SAC unit x number of SAC units computed as pursuant to Subsection 1105.01, Subd. 1 of this Code
1205	1205.01	Curb Cut Permit	\$40.00
1230	1230.07	Sidewalk café permit	\$600.00
1235	1235.03 Subd 2	Parking Permit Refund Parking	\$4.00 per month pro-rated \$4.00 per month pro-rated

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		Permit/Sticker Must be Returned	
1325	1325.03	Tobacco Sale License	\$310.00 per location
1350	1350.06 Subd 1	Commercial Photography	\$26.00 Manager Permit (still photography) \$105.00 Manager Permit (motion photography) \$310.00 Council Permit
1400	1400.12	Truck Restrictive Road Permit	\$15.00

Section 2. The effective date of this Ordinance shall be January 1, 2003.

ATTEST: _____

City Clerk

Mayor

Member Hovland seconded the motion.

Rollcall:

Ayes: Housh, Hovland, Kelly, Masica, Maetzold

Motion carried.

RESOLUTION NO. 2002-111 APPROVED - BUDGET LEVY ADOPTION Manager Hughes briefly reviewed the steps taken by the Council in the 2003 Budget Process. Beginning in September the Council adopted a resolution setting the City's Maximum tax levy. On December 2, 2002, the Council held its Truth In Taxation hearing where citizens were able to give their comments and ask questions regarding the 2003 Budget. He noted adopting the proposed resolution was the final step in the 2003 Budget Process.

Mr. Hughes reminded the Council that one unresolved issue remained relating to the recommendation of the Human Relations Commission for \$10,000 to fund assistance for a Chemical Health Coordinator position at the School District. Previously, the Council suggested deferring this to a later date.

Ms. Masica stated her belief that this position does fall within the School District's responsibility. The Council concurred.

Mayor Maetzold called for public comment. No one appeared.

Member Masica made a motion to close the public hearing. Member Housh seconded the motion.

Ayes: Housh, Hovland, Kelly, Masica, Maetzold

Motion carried.

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No public comments were received.

Member Housh introduced the following resolution seconded by Member Masica and moved its adoption:

RESOLUTION NO. 2002-111
RESOLUTION ADOPTING THE BUDGET FOR
THE CITY OF EDINA FOR THE YEAR 2003, AND
ESTABLISHING TAX LEVY FOR YEAR 2003,
PAYABLE IN 2003

THE CITY COUNCIL OF THE CITY OF EDINA MINNESOTA DOES RESOLVE AS FOLLOWS:

Section 1: The Budget for the City of Edina for the calendar year 2003 is hereby adopted as after this set forth, and funds are hereby appropriated therefore:

GENERAL FUND

GENERAL GOVERNMENT

Mayor and Council	\$	75,412	
Administration		923,990	
Planning		372,680	
Finance		546,680	
Election		117,758	
Assessing		705,044	
Legal and Court Services		408,500	
TOTAL GENERAL GOVERNMENT			\$ 3,150,064

PUBLIC WORKS

Administration	\$	162,824	
Engineering		633,461	
Streets		3,992,260	
TOTAL PUBLIC WORKS			\$ 4,788,545

PROTECTION OF PERSONS AND PROPERTY

Police	\$	6,081,605	
Civilian Defense		44,126	
Animal control		80,689	
Fire		3,422,264	
Public Health		485,821	
Inspections		665,554	
TOTAL PROTECTION OF PERSONS/PROPERTY			\$ 10,780,059

PARK DEPARTMENT

Administration	\$	656,804	
Recreation		295,594	
Maintenance		1,956,576	
TOTAL PARK DEPARTMENT			\$ 2,908,974

NON-DEPARTMENTAL EXPENDITURES

Contingencies	\$	95,000	
Special Assessments/City		42,000	
Property			
Capital Plan Appropriation		50,000	

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Fire Debt Service	84,000	
Employee Programs	126,724	
Commissions/Special Projects	219,753	
TOTAL NON-DEPARTMENTAL EXPENDITURES	\$	617,477
TOTAL GENERAL FUND	\$	22,245,119
DEBT SERVICE OF THE HRA PUBLIC PROJECT	\$	1,026,437
BONDS		
DEBT SERVICE OF EQUIPMENT CERTIFICATES	\$	586,163
TOTAL EXPENDITURES	\$	23,857,719

Section 2. Estimated receipts other than the General Tax Levy are proposed as hereinafter set forth:

GENERAL FUND		
Other Taxes	\$	(95,000)
Licenses and Permits		2,005,925
Municipal Court Funds		900,000
Department Service Charges		1,747,719
Other		181,100
Transfer from Liquor fund		550,000
Income on Investments		120,000
Aid-Other Agencies		363,600
Police Aid		300,000
TOTAL ESTIMATED RECEIPTS	\$	6,073,244

Section 3. That there is proposed to be levied upon all taxable real and personal property in the City of Edina a tax rate sufficient to produce the amounts hereinafter set forth:

GENERAL FUND	\$	16,171,875
LEVY FOR PAYMENT OF HRA PUBLIC PROJECT	\$	1,026,437
BONDS		
LEVY FOR PAYMENT OF EQUIPMENT CERTIFICATE	\$	586,163
TOTAL LEVY	\$	17,784,475

Passed and adopted by the City Council on December 17, 2002.

Member Masica seconded the motion.

Rollcall:

Ayes: Housh, Hovland, Kelly, Masica, Maetzold

Motion carried.

There being no further business on the Council Agenda, Mayor Maetzold declared the meeting adjourned at 10:16 P.M.

City Clerk